

IAP7 Rec'd PCT/PTO 20 APR 2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

**VOLLHARDT et al**

Atty. Ref.: **4804-2**

Serial No. **10/559,625**

Group:

National Phase of: **PCT/EP2004/006520**

International Filing Date: **17 June 2004**

Filed: **December 6, 2005**

Examiner:

For: **TOPICAL AGENT CONTAINING PHYTANIC ACID OR A  
DERIVATIVE THEREOF**

\* \* \* \* \*

**April 20, 2006**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**REQUEST FOR REFUND OF ERRONEOUS CHARGE TO DEPOSIT ACCOUNT**

An erroneous charge has been made to the Deposit Account 14-1140 of the undersigned attorneys and it is requested that a credit in the amount of \$130.00 be made thereto. The following numbered documents with explanation are attached in support of this request:

1. Page 4 of Deposit Account Statement rendered March 2006, where it is to be noted that \$130.00 for a late translation filing fee (code 1618) was charged thereto.
2. Postal receipt card bearing mail room stamp of December 6, 2006 which indicates that 29 pages of an English translation were filed.
3. Copy of December 6, 2006 filing Transmittal Letter which also indicates that a 29 page English translation was filed.
4. Copy of an English translation Declaration page printed from the PTO Private PAIR which has been erroneously stamped "CERTIFIED COPY OF PRIORITY DOCUMENT" by the PTO, when in fact the document was the English application translation itself.

**VOLLHARDT et al**  
**U.S. National Phase of PCT/EP2004/006520**  
**10/559,625**

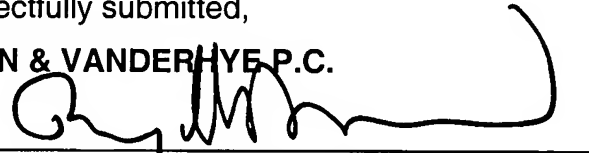
5. Applicants' response entitled RESPONSE TO AND REQUEST FOR WITHDRAWAL OF ERRONEOUSLY ISSUED NOTIFICATION OF MISSING REQUIREMENTS filed March 22, 2006.

Thus, it is submitted that the charge to Deposit Account 14-1140 was in error and a credit in the amount of \$130.00 is definitely in order.

Respectfully submitted,

**NIXON & VANDERHIE P.C.**

By:

  
\_\_\_\_\_  
**Bryan H. Davidson**  
Reg. No. 30,251

**BHD:Imy**

901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100

03/27 1	10737876	2635-195 ML	1806	\$180.00	\$43,895.98
✓ 03/27 1	<del>11046235</del>	<del>4380-163 JTG</del>	<del>2253</del>	<del>\$540.00</del>	<del>\$43,385.98</del>
03/27 1	10239830	JRL 3670-47 <del>HWB</del>	1252	\$330.00	\$43,055.98
03/27 3	10538736	4636-25 DMB	2201	\$100.00	\$42,955.98
03/27 14	10110679	423-64 <del>ARC</del>	1464	\$130.00	\$42,825.98
03/27 60	60743746	3589-83 JHN	1005	\$200.00	\$42,625.98
03/27 62	10919435	839-1447 MJK	1806	\$180.00	\$42,445.98
03/27 72	11090798	1035-577	1251	\$120.00	\$42,325.98
<del>03/27 73</del>	<del>11090798</del>	<del>1035-577</del>	<del>1814</del>	<del>\$130.00</del>	<del>\$42,195.98</del>
03/27 498	10559625	4804-2 BHD	1618	\$130.00	\$42,065.98
✓ 03/27 2054	<del>78846016</del>	<del>551-215 FPP</del>	<del>7001</del>	<del>\$325.00</del>	<del>\$41,740.98</del>
03/28 1	10270168	2333-113 PAM	1814	\$130.00	\$41,610.98
03/29 1	10512217	2-384 DMB	1253	\$1,020.00	\$40,590.98
✓ 03/29 51	<del>2276664</del>	<del>162-95</del>	<del>8521</del>	<del>\$40.00</del>	<del>\$40,550.98</del>
✓ 03/29 52	<del>2276664</del>	<del>162-95</del>	<del>8522</del>	<del>\$25.00</del>	<del>\$40,525.98</del>
✓ 03/29 67	<del>10362748</del>	<del>540-429 SES</del>	<del>1401</del>	<del>\$500.00</del>	<del>\$40,025.98</del>
✓ 03/29 83	<del>09842323</del>	<del>723-1069 MEN</del>	<del>1252</del>	<del>\$450.00</del>	<del>\$39,575.98</del>
✓ 03/29 1987	<del>78848905</del>	<del>551-216 FPP</del>	<del>7001</del>	<del>\$1,300.00</del>	<del>\$38,275.98</del>
03/30 38	29243349	790-1692 MJK	1251	\$120.00	\$38,155.98
✓ 03/30 987	<del>78849516</del>	<del>551-217 FPP</del>	<del>7001</del>	<del>\$1,300.00</del>	<del>\$36,855.98</del>
✓ 03/30 1738	<del>78849934</del>	<del>3392-121 FPP</del>	<del>7001</del>	<del>\$850.00</del>	<del>\$36,205.98</del>
✓ 03/30 1804	<del>78849976</del>	<del>3392-122 FPP</del>	<del>7001</del>	<del>\$650.00</del>	<del>\$35,555.98</del>
03/31 1 *	2018590		6201	\$400.00	\$35,155.98
03/31 2 *	2018590		6205	\$100.00	\$35,055.98
03/31 3	10165528	550-350 BJ	1806	\$180.00	\$34,875.98
03/31 4 *	1903747		6203	\$100.00	\$34,775.98
03/31 5 *	1903747		6206	\$100.00	\$34,675.98
✓ 03/31 57	<del>10642638</del>	<del>3659-70</del>	<del>2252</del>	<del>\$165.00</del>	<del>\$34,510.98</del>
✓ 03/31 58	<del>10642638</del>	<del>3659-70</del>	<del>2801</del>	<del>\$395.00</del>	<del>\$34,115.98</del>
03/31 1664	78851057	797-824 ZAR	7001	\$325.00	\$33,790.98
03/31 1717	78851097	797-625 ZAR	7001	\$325.00	\$33,465.98

START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE
\$37,570.98	\$37,230.00	\$33,125.00	\$33,465.98

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1

Transmittal National Phase

Serial No.: PG/EP2004/006520 Atty: BHD  
Applicant: Volkswagen AG Date: 12-6-05  
Title: Topical Agent, etc Client: 4804  
Ref: 2

☒ Amendment  
29 Pages Specification, claims & Abstract -  
16 Claims Certified Translation  
Sheets Drawings: Formal \_\_\_\_\_  
Informal \_\_\_\_\_  
☒ Declaration (1 Pages)  
☒ Assignment  
Priority Document  
Base Issue Fee Transmittal  
940 Fee (Check) Credit CARD

10/559625

Other: IDS RECEIVED/PTO DEC 2005

2

FORM PTO-1390 MODIFIED	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTORNEY'S DOCKET NUMBER <b>4804-2</b>
<b>TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371</b>		U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.5)  <b>Unknown</b>
INTERNATIONAL APPLICATION NO. <b>PCT/EP2004/006520</b>	INTERNATIONAL FILING DATE <b>17 June 2004</b>	PRIORITY DATE CLAIMED <b>17 June 2003</b>
TITLE OF INVENTION <b>TOPICAL AGENT CONTAINING PHYTANIC ACID OR A DERIVATIVE THEREOF</b>		
APPLICANT(S) FOR DO/EO/US <b>VOLLHARDT et al</b>		
<p>Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:</p> <ol style="list-style-type: none"> <li><input checked="" type="checkbox"/> This is a <b>FIRST</b> submission of items concerning a submission under 35 U.S.C. 371.</li> <li><input type="checkbox"/> This is a <b>SECOND</b> or <b>SUBSEQUENT</b> submission of items concerning a submission under 35 U.S.C. 371.</li> <li><input checked="" type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.</li> <li><input type="checkbox"/> The U.S. has been elected (Article 31).</li> <li>A copy of the International Application as filed (35 U.S.C. 371(c)(2)).             <ol style="list-style-type: none"> <li><input type="checkbox"/> is attached hereto (      pages specification, claims &amp; abstract (      claims),      sheets drawings).</li> <li><input checked="" type="checkbox"/> has been communicated by the International Bureau.</li> <li><input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US).</li> </ol> </li> <li><input checked="" type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(3))             <ol style="list-style-type: none"> <li><input checked="" type="checkbox"/> is attached hereto (29 pages specification, claims &amp; abstract (16 claims), 1 page Certificate of Translation).</li> <li><input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4).</li> </ol> </li> <li><input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))             <ol style="list-style-type: none"> <li><input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau).</li> <li><input type="checkbox"/> have been communicated by the International Bureau.</li> <li><input type="checkbox"/> have not been made; however, the time limit for making such amendments has <b>NOT</b> expired.</li> <li><input type="checkbox"/> have not been made and will not be made.</li> </ol> </li> <li><input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).</li> <li> <ol style="list-style-type: none"> <li><input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).</li> <li><input type="checkbox"/> Declaration was submitted to the International Bureau during International Phase (see copies of Declaration (      page Form PCT/RO/101 and Form PCT/IB/371 and first page of printed publication acknowledging receipt thereof attached).</li> </ol> </li> <li><input type="checkbox"/> An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).</li> </ol> <p><b>Items 11 To 20 below concern document(s) or information included:</b></p> <ol style="list-style-type: none"> <li><input checked="" type="checkbox"/> An Information Disclosure Statement under 37 C.F.R. 1.97 and 1.98.</li> <li><input checked="" type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 C.F.R. 3.28 and 3.31 is included.</li> <li> <ol style="list-style-type: none"> <li><input checked="" type="checkbox"/> A <b>FIRST</b> preliminary amendment.</li> <li><input type="checkbox"/> A <b>SECOND</b> or <b>SUBSEQUENT</b> preliminary amendment.</li> </ol> </li> <li><input type="checkbox"/> An Application Data Sheet under 37 C.F.R. § 1.76.</li> <li><input type="checkbox"/> A substitute specification.</li> <li><input type="checkbox"/> A change of power of attorney and/or address letter.</li> <li><input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821-1.825.</li> <li><input type="checkbox"/> A second copy of the published international application under 35 U.S.C. 154(d)(4).</li> <li><input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).</li> <li><input checked="" type="checkbox"/> Other items or information. Front page of published PCT application WO 2004/110396</li> </ol>		

U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.5) <b>Unknown</b>		INTERNATIONAL APPLICATION NO. <b>PCT/EP2004/006520</b>		ATTORNEY'S DOCKET NUMBER <b>4804-2</b>	
<input checked="" type="checkbox"/> The following fees are submitted:					
<b>BASIC NATIONAL FEE (37 C.F.R. 1.492(a)(1)-(5)):</b>					
21. <input checked="" type="checkbox"/>	Basic national fee .....			\$300.00 (1631)/\$150.00 (2631)	\$ 300.00
22. <input checked="" type="checkbox"/>	Examination Fee.....			\$0 (1643/2643)	\$ 200.00
				\$200.00 (1633)/\$100.00 (2633)	
23. <input checked="" type="checkbox"/>	Search Fee .....			\$0 (1640/2640)	
				\$100 (1641)/\$50 (2641)	
				\$400 (1642)/\$200 (2642)	
				\$500.00 (1632)/\$250.00 (2632)	\$ 400.00
<b>TOTAL OF ABOVE CALCULATIONS</b>					\$ 900.00
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets		Extra Sheets		Number of each additional 50 or fraction thereof (round up to a whole number)	RATE
0	-100	0	/50 =	0.00	\$0.00 (1681)
					\$0.00 (2681)
Surcharge of \$130.00 (1617)/\$65.00 (2617) for furnishing the oath or declaration later than <input type="checkbox"/> 30 months from the earliest claimed priority date (37 C.F.R. 1.492(e)).					
CLAIMS		NUMBER FILED		# EXTRA	RATE
Total Claims		16	minus 20	0 X	\$50.00 (1615)/ \$25.00 (2615)
			=		
Independent Claims		1	minus 3 =	0 X	\$200.00 (1614) \$100.00 (2614)
MULTIPLE DEPENDENT CLAIMS(S) (if applicable)					\$360.00 (1616)/\$180.00 (2616)
Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s): One Month Extension \$120.00 (1251)/\$60.00 (2251); Two Month Extensions \$450.00 (1252)/\$225.00 (2252); Three Month Extensions \$1020.00 (1253)/\$510.00 (2253); Four Month Extensions \$1590.00 (1254)/\$795.00 (2254)					\$ 0.00
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.					
Processing fee of \$130.00 (1618), for furnishing the English Translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 C.F.R. 1.492(f)).					0.00
<b>TOTAL NATIONAL FEE =</b>					\$ 900.00
Fee for recording the enclosed assignment (37 C.F.R. 1.21(h). The assignment must be accompanied by an appropriate cover sheet (37 C.F.R. 3.28, 3.31). \$40.00 (8021) per property					\$ 40.00
Fee for Petition to Revive Unintentionally Abandoned Application; \$1500.00 (1453) / \$750.00 (2453)					\$ 0.00
<b>TOTAL FEES ENCLOSED =</b>					\$ 940.00
					Amount to be refunded: \$
					Amount to be Charged: \$

- a. ☐ A check in the amount of \$940.00 to cover the above fees is enclosed.
- b. ☐ Please charge my Deposit Account No. 14-1140 in the amount of \$\_\_\_\_\_ to cover the above fees.  
A duplicate copy of this form is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any

overpayment to Deposit Account No. 14-1140. A duplicate copy of this form is enclosed.

d. ☒ **CREDIT CARD PAYMENT FORM ATTACHED.**

e. ☒ The entire content of International Application No. PCT/EP2004/006520 and any U.S. and foreign application(s) corresponding thereto, and EP 03013724.4, referred to in this application is/are hereby incorporated by reference in this application.

**NOTE:** Where an appropriate time limit under 37 C.F.R. 1.494 or 1.495 has not been met, a petition to revive (37 C.F.R. 1.137(a) or (b) must be filed and granted to restore the application to pending status.

**CORRESPONDENCE ADDRESS**

Direct all correspondence to:

☒ **Customer Number:**

**23117**

*Type Customer Number here*

Telephone: (703) 816-4000

BHD:lmy

  
**Bryan H. Davidson**

NAME

**30,251**

REGISTRATION NUMBER

**December 6, 2005**

Date

**CERTIFIED COPY OF  
PRIORITY DOCUMENT**

DECLARATION

I, Ursula Scherz of Schlesierstr. 8 in 81669 München, Federal Republic of Germany, do hereby declare that I am conversant with the English and German languages and am a competent translator thereof. I declare further that the following is a true and correct translation into English made by me of the original text of the PCT application PCT/EP2004/006520.

Signed this 26<sup>th</sup> day  
of October 2005



*Ursula Scherz*

BEST AVAILABLE COPY

4



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

**VOLLHARDT et al**

Atty. Ref.: **4804-2**

Serial No. **10/559,625**

Group: **Unassigned**

Filed: **December 6, 2005**

Examiner: **Unassigned**

For: **TOPICAL AGENT CONTAINING PHYTANIC ACID OR A  
DERIVATIVE THEREOF**

\* \* \* \* \*

March 22, 2006

Commissioner of Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO AND REQUEST FOR WITHDRAWAL OF ERRONEOUSLY ISSUED  
NOTIFICATION OF MISSING REQUIREMENT**

Sir:

The following comments and attachments hereto are intended to be fully responsive to the Notification of Missing Requirements dated March 1, 2006 (copy attached, and hereinafter referred to as "the Notification"), which set a nominal response due date of May 1, 2006. Specifically, as will become evident from the discussion below and attached evidence, the Notification was issued in error and therefore should be withdrawn.

Applicants note in this regard that the Notification alleges that the translation of the application into English and the processing fee have not been filed. However, the records of the applicants' undersigned attorney show that such formalities were in fact timely filed in the U.S. Patent and Trademark Office on December 6, 2005. A copy of date-stamped postcard receipt which evidences the Office's acknowledgement of receipt of the certified English-language translation of the application on that date is attached as Exhibit A. In the event the translation has become misplaced in the Office's records, a duplicate copy of the same as filed on December 6, 2005 is also attached.

**VOLLHARDT et al**  
**Serial No. 10/559,625**

It is believed that no fees are required in this matter since the certified English language translation of the application was in fact timely filed on December 6, 2005. However, should the Office deem otherwise, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14 1140.

Favorable further action in this matter consistent with the above comments is solicited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: 

Bryan H. Davidson  
Reg. No. 30,251

BHD:bcf  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100

BMD  
4804-2



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO. 10/559,625	FIRST NAMED APPLICANT Jurgen Herber Volihardt	ATTY. DOCKET NO. 4804-2
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INTERNATIONAL APPLICATION NO. PCT/EP04/06520
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23117  
NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON, VA 22203

I.A. FILING DATE 06/17/2004	PRIORITY DATE 06/17/2003
--------------------------------	-----------------------------

MATTER 4804-2  
DATE 3/1/06  
DATE May 1, 2006  
DEADLINE Oct 1, 2006  
ELECTED BY BAG/ [Signature]

CONFIRMATION NO. 2804  
371 FORMALITIES LETTER  
\*OC00000018153483\*

Date Mailed: 03/01/2006

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 12/06/2005
- Copy of the International Search Report filed on 12/06/2005
- Preliminary Amendments filed on 12/06/2005
- Information Disclosure Statements filed on 12/06/2005
- Oath or Declaration filed on 12/06/2005
- Request for Immediate Examination filed on 12/06/2005
- U.S. Basic National Fees filed on 12/06/2005
- Assignment filed on 12/06/2005
- Priority Documents filed on 12/06/2005

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Translation of the application into English. Note a processing fee will be required if submitted later than 30 months from the priority date.
- Processing fee of \$130 for providing the translation of the application and/or the Annexes later than 30 months from the priority date (37 CFR 1.492(i)).

**SUMMARY OF FEES DUE:**

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 for English translation surcharge required.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

PATRICIA A BOOKER

Telephone: (703) 308-9140 EXT 204

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/559,625	PCT/EP04/06520	4804-2

FORM PCT/DO/EO/905 (371 Formalities Notice)



Transmittal National Phase

Serial No.: PG/EP2004/006520 Atty: BND  
Applicant: Volkhard et al Date: 12-6-05  
Title: Topical Agent, etc. Client: 4804  
Ref: 2

X Amendment  
29 Pages Specification, claims & Abstract  
16 Claims Certified Translation  
Sheets Drawings: Formal \_\_\_\_\_  
Informal \_\_\_\_\_  
X Declaration (1 Pages)  
X Assignment 10/559625  
Priority Document  
Base Issue Fee Transmittal  
940 Fee (Check) Credit Card

Other: IOS

PTO

12-6-05

